

STATE OF CALIFORNIA HEALTH AND SAFETY CODE

DIVISION 104. ENVIRONMENTAL HEALTH PART 6. WHOLESALE FOOD CHAPTER 8. CANNERIES

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Article 1. Definitions and Scope

112650. "State board," or "State Board of Public Health," as used in this chapter, means the State Department of Health Services.

112655. "Meat or meat products" as used in this chapter, means any meat or meat product or poultry or poultry product that is not subject to the inspection of the Bureau of Meat Inspection or the Bureau of Poultry Inspection of the Department of Food and Agriculture, or of the Meat Inspection Division or Poultry Division of the United States Department of Agriculture, or of an approved municipal inspection department or establishment.

112660. "Food product," as used in this chapter, includes any fish or fish product, meat or meat product, or any other food product.

112665. The operation of noncommercial canning centers by community canning centers, schools, churches, other organizations, or housewives who pack hermetically sealed canned food products for their own consumption and do not sell the canned food, is exempt from the licensing provisions of this chapter.

112670. In lieu of a license, a permit to operate a canning center shall be issued without cost by the department upon the submission of evidence as the department requires to show that the persons operating the center are qualified and that the center is properly equipped and meets all other provisions of this chapter.

112675. Food products that do not require the use of a pressure cooker but necessitate acidulation and pH determinations come within this chapter.

112680. No act that is unlawful under Part 5 (commencing with Section 109875), relating to the adulterating, mislabeling, misbranding, false advertising, and sale of foods, is lawful by reason of this chapter.

Article 2. Cannery Inspection Board

112685. There is in the state government a Cannery Inspection Board consisting of the following six members:

- (a) The director of the state department, who shall act as chairperson.
- (b) One person appointed by the director who shall have had at the time of his or her appointment at least 10 years experience in or with canning technology and has a degree in chemistry, bacteriology, or medicine.
- (c) Four persons appointed by the director who are experienced, have substantial investments, and are actively engaged in the canning industry at the time of their appointment. One of the four appointive members shall be engaged in the canning of animal food.

112690. Each appointed member holds office for a term of one year or until his or her successor is appointed.

112695. Members of the board serve without compensation. The board shall meet at least quarterly.

112700. The Cannery Inspection Board shall, subject to the approval of the department, estimate the cost of the separate inspection and laboratory control required to be made for each food product subject to this chapter.

112705. The estimate shall be made prior to the opening of the canning season for each product having a canning season of less than three consecutive months, and prior to each quarter for each product having a canning season of more than three consecutive months.

112710. For the purpose of prorating the estimated cost of inspection and laboratory control, the Cannery Inspection Board, subject to the approval of the department, shall estimate the number of cases to be packed, the number of tons to be packed, or the number of man-hours necessary to be employed, whichever in its discretion is most equitable as a basis of proration.

112715. Based on the estimates required by the last three sections, the Cannery Inspection Board, subject to the approval of the department, shall determine the probable cost of inspection and laboratory control per thousand cases, per ton, or per man-hour, whichever in its discretion is most equitable.

112720. The cost of laboratory control and research on products subject to this chapter shall be prorated by the Cannery Inspection Board in the same manner as the costs of inspection are prorated by it.

112725. If the delegation of discretion to determine whether the case, ton, or man-hour basis is most equitable as a basis of prorating the cost of inspection and laboratory control is held invalid as an unlawful delegation of legislative power, the invalidity shall not affect the validity of the remaining portions of this chapter. The Legislature hereby declares that if it had known that the delegation of the discretion would be declared invalid as an unlawful delegation of legislative power, it would have designated the man-hour basis of proration as the most equitable basis of proration. In the event of an invalidity, the cost of inspection and laboratory control shall be prorated on the man-hour basis.

Article 3. Proration of Costs

112730. At the end of each quarter, or at the close of any canning season that does not exceed three consecutive months, the state department shall determine the actual cost of inspection and laboratory control of each separate food product for the preceding quarter or preceding canning season, and shall prorate the cost to each person licensed under this chapter on the basis of cases packed, tons packed, or number of man-hours necessary to be employed, whichever has been determined by the Cannery Inspection Board, with the approval of the state department, to be most equitable.

112735. In making any separate inspection and laboratory control for any food product, the state department shall not spend more than the amount estimated by the Cannery Inspection Board as the cost of the inspection without the approval of the Cannery Inspection Board.

112740. In making estimates, determinations, assessments, and prorations under this article and Article 2 (commencing with Section 112685), the Cannery Inspection Board and the state department may include as a part of the cost of inspection a reasonable charge for standby services of inspectors.

112745. In lieu of all other procedures in this article and Article 2 (commencing with Section 112685), each person licensed under this chapter may be assessed at an estimated annual hourly rate set by the Cannery Inspection Board with the approval of the department and of the State Director of Finance. The annual rate shall be set for each industry group based on the estimated cost.

Article 4. Licenses and Licensees

112750. It is unlawful for any person to engage in the noncommercial canning of salmon, or in the commercial canning of any fish or fish product, meat or meat product, or any other food product for the use of man or animal, the sterilization of which in the opinion of the department requires the use of a pressure cooker or a retort, without first obtaining a license from the department.

112755. The department shall issue an annual license, that is nontransferable, to any person on the receipt of fifty dollars (\$50) per plant, and evidence as the board may require to show that (1) the applicant is properly equipped with a retort or pressure cooker that has recording thermometers, indicating thermometers, and pressure gauges to

carry out regulations as the department may adopt for the sterilization of food products for the canning of which a license is sought and (2) the applicant is in compliance with the sanitary regulations of the department. The applicant shall be deemed to be in compliance with the sanitary regulations unless the applicant has been given written notice by the department not less than 60 days prior to the expiration of the existing license that the cannery does not comply with the sanitary regulations, and the applicant has subsequently failed to bring the cannery into compliance therewith.

112760. Any person who has been denied the annual license provided in this chapter may obtain a hearing by the department by mailing a written request therefor to the department. The department shall give the applicant at least 10 days notice of the hearing and shall hold such hearing within 30 days of the receipt of the request.

112765. In addition to the annual license fee, the department shall demand from each licensee a cash deposit for the payment of his or her pro rata share of the estimated cost of inspection and laboratory control as the department may deem necessary.

112770. If the deposit made by any licensee is insufficient to meet the actual cost of an inspection and laboratory control of any product determined by the department, the latter shall demand from the licensee, and the licensee shall immediately pay to the department, in addition to the license fee payable by the licensee, the difference between the deposit and his or her pro rata share of the actual cost of the inspection and laboratory control.

112775. If at the end of the calendar year, or at the end of any canning season of less than three consecutive months the deposit made by any licensee under this chapter is greater than the actual cost prorated to the licensee, the difference shall be refunded if requested by the licensee in accordance with law. If the difference is not so refunded, it shall be credited toward the required deposit for the next calendar year or canning season.

112780. No food product subject to the inspection required by this chapter shall be shipped by the licensee who packed it until the licensee has either paid his or her pro rata share of the estimated cost of inspection or has furnished the department a cash deposit for the payment of his or her pro rata share of the cost.

112785. The department may after notice and opportunity for hearing suspend or revoke a license issued under this chapter for any of the following causes:

- (a) Nonpayment of the pro rata share of the cost of inspection and laboratory control, or failure to comply with a demand for a cash deposit or other security by the holder of the license.
- (b) Noncompliance with any of the regulations of the department.
- (c) Operation of an insanitary cannery after due notice by registered mail has been received.
- (d) Inadequate ratproofing of a cannery throughout.
- (e) Willful packing of any canned food commodity that has been rejected by an agent of the department.
- (f) Packing of any canned food commodity subject to this chapter without notifying the department before packing.

112790. After conviction for a violation of Part 5 (commencing with Section 109875), the license of the person convicted may be suspended for a period of from 1 to 30 days.

112795. Proceedings for the suspension and revocation of licenses shall be conducted in accordance with Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code; and the department has all the powers granted therein.

Article 5. General Provisions

112800. No person shall permit another to operate a steam-controlled retort used in the commercial canning industry for the sterilization of food products, unless the latter first obtains a permit from the department. The department may pass upon and determine the qualifications of the applicant with a view to the preservation of the public health.

Any permit granted is revocable by the department whenever in its judgment the public health requires such action.

112805. It is unlawful for any person to place upon the label of any bottle, can, jar, carton, case, box, barrel, or any other receptacle, vessel, or container of whatever material or nature that may be used by a packer, manufacturer, producer, jobber, or dealer for enclosing any canned food product, fish or fish product, or meat or meat product, any statement relative to the product having been inspected, unless the statement has been approved in writing by the department.

Approval of a statement is revocable at any time by the department upon written notice.

112810. Any food product packed in violation of this chapter may be quarantined by the department until a laboratory examination has established that the product meets the requirements of this chapter.

112815. Any person who packs any food product that has been quarantined by the department shall pay the department all reasonable costs of any laboratory examination, determined by the Cannery Inspection Board, subject to the approval of the department, to be necessary to ascertain that the seized product was packed in violation of this chapter.

112820. The Division of Cannery Inspections has supervision over the inspection and examination of raw fish and fish products preparatory to canning.

The cost of the inspection and examination shall be determined and paid in the manner provided in Article 2 (commencing with Section 112685).

Article 6. Rules and Enforcement

112825. The department may make regulations as it deems necessary for the proper enforcement of this chapter, and the regulations shall have the force and effect of law.

112830. No rule or regulation or amendment thereto shall be adopted unless submitted by the department to the Cannery Inspection Board at least five days prior to the date of adoption.

112835. The state board shall enforce its regulations and the provisions of Part 5 (commencing with Section 109875), relating to the canning of food products, through the Chief of the Bureau of Cannery Inspections and other employees as it deems necessary. The state board shall, so far as practicable, acquaint each licensee subject to this chapter with its regulations, and upon request therefor by any licensee shall furnish a copy of the regulations. 112840. The district attorney of the county in which any violation of this chapter occurs shall prosecute the person accused of the violation.

Article 7. Funds

112845. The Cannery Inspection Fund is hereby established as a special fund in the State Treasury. All money received by the department under this chapter shall be deposited in the fund and expended by the department, upon appropriation by the Legislature, for the purpose of carrying out and implementing this chapter.

112850. Notwithstanding Section 112845, the department and the Department of Finance may authorize the deposit in the Special Deposit Fund of cash deposits received by the department under Section 112765; and in that event, upon the determination by the department that all or a part of any deposit is due the state for payment on account of the depositor's pro rata share of costs incurred by the state under this chapter, the amount so determined shall, on order of the Controller, be transferred from the Special Deposit Fund to the Cannery Inspection Fund. All money deposited in the Special Deposit Fund under this section shall be subject to Article 2 (commencing with Section 16370) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code.

Article 8. Violations

112855. Any person who does not obtain a license required of him or her by this chapter, or who engages in canning operations after his or her license has been suspended or revoked, or who otherwise violates this chapter, is guilty of a misdemeanor, and upon conviction is punishable by a fine of not less than fifty dollars (\$50) nor more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not exceeding six months.